



IAC-AH-KEW-V1

**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: AA/02168/2015

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 6 October 2015**

**Decision & Reasons Promulgated  
On 13 January 2016**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**VC  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mrs Peterson, instructed by A & P Solicitors

For the Respondent: Mr Harrison, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, VC, was born in 1967 and is a female citizen of Sri Lanka. The appellant had travelled to and from the United Kingdom on visit visas between 2013-2014 but, on 13 June 2014, she arrived at Manchester Airport and claimed asylum. The claim was refused by a decision of the respondent dated 20 January 2015 and the decision was also taken to remove her from the United Kingdom. The appellant appealed against that decision of the First-tier Tribunal (Judge Gladstone) which, in a decision promulgated on 20 April 2015, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. There are four grounds of appeal. The first ground of appeal challenges the judge's application of Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) 2004. At [141] the judge recorded that Section 8(2) of the 2004 Act concerns behaviour by a claimant which is designed or likely to conceal information or is designed or likely to mislead/obstruct or delay the handling and resolution of a claim for asylum. At [142] the judge found that it was "very clear" that there had been "behaviour to which Section 8 applies." I should not accept the appellant's explanation for failing to answer questions during her screening and asylum interview. The judge noted at [144] that when the appellant's application was refused in January 2015, the appellant did not disclose the true nature of her claim even at that stage.
3. The appellant challenges the judge's application of Section 8. The appellant asserts that Section 8 relates to matters that "should" be taken into account and that Section 8 should not be determinative of credibility. The ground has no merit. It would, perhaps, have been better for the judge to have left Section 8 to a later stage of her analysis but, given that her analysis had to start somewhere, she did not err in law by starting with the application of Section 8. The judge properly reminded herself that "great care must be taken before making adverse findings of credibility in asylum cases" [139]. She reminded herself that she was obliged to consider the evidence in its entirety with an open and objective mind. She wrote, "I have also taken into account as damaging a claimant's credibility of any behaviour to which Section 8 of the 2004 Act applies"; the fact that the judge "also" took Section 8 into account having stated that she was required to consider the evidence in its entirety leads me to conclude that she has not given excessive or improper emphasis to Section 8 factors in this analysis. The judge was entitled to find that the appellant had sought to obstruct the proper progress of her asylum claim by withholding information. Further, the judge's analysis did not begin and end with Section 8; in a very detailed and thorough decision the judge has proceeded to do what she indicated that she would do at [139], that is to consider the evidence in its entirety.
4. The second Ground of Appeal asserts that the judge has failed to give clear findings of fact. At [146] the judge stated that I should consider the appellant's credibility "has been fatally damaged." She gave detailed reasons for reaching that finding. The appellant asserts that this was inconsistent with the judge's finding at [177] where it is asserted that the judge accepted that the appellant had had LTTE involvement in the past. The ground is without merit. The appellant has entirely misconstrued what the judge has said at [177]. The judge wrote, "for all the above reasons, therefore, I do not find the appellant's initial or subsequent claim [for asylum] to be credible. *If she had any LTTE involvement in the past, it is not a relevant history with reference to my above findings*" [my emphasis]. The judge did not, as the grounds assert [8] that she found "as credible the appellant's historical involvement with the LTTE." The judge's observation about the appellant's claimed LTTE history is conditional (see the use of the word "if"); she did not accept that any part of the

appellant's account was credible. Accordingly, there has been no inconsistency in the judge's analysis. The remainder of Ground 2 amounts to nothing more than a restatement of the appellant's case which the judge rejected.

5. The third Ground of Appeal accuses the judge of having approached the evidence with a "closed mind." The judge recorded at [178] and also at [10] that the appellant was in possession of a copy of *GJ (Post-Civil War: Returnees) Sri Lanka CG [2013] UKUT 00319 IAC*. At [10], the judge had expressed surprise that whilst neither representative could produce a copy of this country guidance decision, the appellant herself had a copy. At [178] the judge implies that the appellant was aware of risk categories detailed in *GJ* and that she had, in effect, tailored her account to show that she was a member of such categories.
6. I find that the ground is without merit. Mrs Peterson, for the appellant, told me at the hearing that she did not accuse the judge of having approached the evidence with "a closed mind". Further, the judge has made a self-direction [139] to approach the evidence with "an open and objective mind." Having said that, there was no reason why the appellant should not have a copy of a relevant country guidance case and the judge's comment at [178] is possibly unhelpful. However, there is no suggestion in this detailed decision that the judge has found the appellant's evidence incredible simply because she had in her possession a copy of a country guidance case. The decision contains a lengthy and very detailed analysis of all the evidence and it is apparent that there were discrepancies in that evidence which were so serious as to leave the judge to have serious doubts regarding the appellant's credibility as a witness. The relevance of the judge's reference to the appellant's possession of a copy of *GJ* was explained by the judge's observation that the appellant had produced two entirely different accounts in support of her claim for asylum. The first stressed that she had had no connection with the LTTE whereas the second account suggested otherwise. It was, in my opinion, legitimate for the judge to observe that the appellant's second account may have been informed by the appellant's reading of *GJ*. However, I repeat that I find that the judge has given other, sustainable reasons for finding that the appellant did not tell the truth.
7. Ground 4 deals with the appellant's alleged *sur place* activities. The judge found [103] that she could give no weight at all to evidence concerning the appellant's alleged *sur place* activities. The judge rejected the letter from an organisation with which the appellant claimed to be involved (GGTE) and noted that other photographs produced provided no date or place where they claimed to have been taken. The grounds dispute the judge's rejection of this evidence and assert one of the photographs is only "a little blurred" and relates to other items of evidence produced.
8. The ground is without merit. The judge has properly considered the evidence, such as it was, regarding the appellant's *sur place* activities in the context of all the evidence. She was entitled to attach little weight to

evidence which was undated, badly copied and of which the relevance to the appellant or to her claimed *sur place* activities was entirely unclear. No submission was made at the Upper Tribunal hearing that the appellant's *sur place* activities alone would expose her to real risk upon return to Sri Lanka. There was no evidence to show that the Sri Lankan authorities would be aware of the appellant's activities in the United Kingdom or, if they were aware, that the appellant would be exposed to a real risk on return in consequence.

9. For the reasons given above, this appeal is dismissed.

**Notice of Decision**

This appeal is dismissed.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 11 January 2016

Upper Tribunal Judge Clive Lane

**TO THE RESPONDENT**  
**FEE AWARD**

No fee award.

Signed

Date 11 January 2016

Upper Tribunal Judge Clive Lane